

REMARKS

Applicants thank the Examiner for the through consideration given the present application.

Claims 1, 3-6, 9, 11, 12, and 14-17 are currently being prosecuted. The Examiner is respectfully requested to reconsider his rejections in view of the amendments and remarks as set forth below.

Allowable Subject Matter

It is gratefully acknowledged that the Examiner considers the subject matter of claims 9 and 11 as being allowable.

Removal of Previous Allowance

Applicants note that in the previous rejection, the Examiner indicated that claims 3 and 14 would be allowable if rewritten in independent form and that claims 4, 5, 15 and 16 would be allowable if rewritten to overcome the 35 USC §112 rejection and also if rewritten in independent form. Applicants accomplished this in the recent Amendment of October 14, 2003. However, the Examiner has not allowed these claims in the present application, but has instead applied a newly cited reference and a new rejection in regard to these and the other claims. Applicants question this procedure since the previous amendment only combined limitations only already present in the claims. Applicants submit that the Examiner has not followed standard procedures for this situation and in particular has unnecessarily removed the allowance of the claims previously indicated as being allowable.

Claim Rejections

The Examiner objected to claims 6 and 17 for grammatical purposes. By way of the present amendment, “a oil” has been changed to “an oil” in both claims. Accordingly, this objection is overcome.

Rejection Under 35 USC §112

Claims 4, 5, 15-16 stand rejected under 35 USC 112, second paragraph, as being indefinite. This rejection is respectfully traversed.

The Examiner suggested the rewording the language regarding the shorter transverse part to avoid any confusion. This has now been accomplished as suggested. Accordingly, this rejection is now overcome.

Rejection Under 35 USC §103

Claims 1, 3-5, 12, and 14-16 stand rejected under 35 USC §103 as being obvious over JP-988523 in view of Mitsui (U.S. Patent 4,086,981). This rejection is respectfully traversed.

The Examiner relies on the Japanese reference to show a lubricating apparatus including a cylindrical relief valve 87 having a longitudinal axis disposed in a horizontal direction which is parallel to the longitudinal axis of a main gallery and a longitudinal axis for a crank shaft. The Examiner also states that the relief valve has a longer longitudinal part parallel to the main gallery with an end being in communication with the main gallery in view of the passage that is shown in the area of the lead line of 72a, but does not show the L-shaped body.

The Examiner relies on Mitsui to show an L-shaped body and a longer and shorter transverse part. The Examiner feels that it would have been obvious to modify the body shape of the relief valve of the Japanese reference to have an L-shaped body as taught by Mitsui. Applicants disagree with the Examiner's understanding of these references.

First of all, with regard to Mitsui, while a valve is shown having a L-shaped body, this is not a relief valve, but instead is a manually operated valve for draining oil from an oil pan. The valve is not open until handle 21 is manually released by the operator. When the handle is pulled, the valve allows oil to flow from the oil pan which is above the valve through the shorter part and outlet port 6 into a receptacle. Thus, Applicants submit that this does not show a relief valve and does not show any part in communication with the main gallery. The operation of this device is completely different from that of the Japanese reference and also the present application. While Applicants admit that the reference does teach that a valve can be in an L-shape, it teaches no more than this.

Applicants also disagree with the Examiner concerning the operation of the device seen in the Japanese reference. Oil is moved from oil pan 6a through passage 44 into oil pump 38 (paragraph [0026]). The oil pump sends oil upwardly through passage 46 and into passage 50 which is referred to as a "hole" in paragraph 17 and is never referred to as a main gallery. This passage connects to passage 72 which carries the oil to the oil filter 16. The oil is returned through passage 74. If the relief valve is closed, the oil travels through passage 76 to lubricate the necessary parts (paragraph [0020]). If the oil pressure exceeds a set pressure, the relief valve will open and the oil will travel through passage 72a, which is a downward extension of passage 72 so that the oil flows downwardly into the relief valve rather than upwardly into the oil filter. Oil which passes through the relief valve flows into the medial surface of the clutch cover (paragraph [0027]).

Thus, while this reference shows a lubricating apparatus for an engine and includes a cylindrical relief valve which has a longitudinal axis disposed horizontally and in parallel to the crank shaft, it does not teach the other elements of claim 1. The main gallery is not discussed at all in the reference. Since the crank shaft is horizontal, it is possible that the main gallery is likewise horizontal. However, there is no teaching that the relief valve is in communication with the main gallery at all. Further, the reference does not teach an L-shaped body with a shorter transverse part.

Thus, neither Mitsui nor the Japanese reference teaches communication of the relief valve to the main gallery. Even if it would be obvious to use an L-shaped body as shown in Mitsui, there would still be no teaching of the connection of the shorter part to such a main gallery.

Furthermore, Applicants submit that it would not be obvious to use the valve of Mitsui in the Japanese reference since the valve shown in Mitsui is not a relief valve, but instead a manually operated valve. For these reasons, Applicants submit that neither of these references nor their combination teach the invention as described in claim 1.

Claims 3, 4, 12, 14 and 15 are all independent claims which include the limitations described in claim 1 as well as other limitations. Applicants submit that these claims are allowable for the same reasons cited above in regard to claim 1. In addition, each of these claims recites other features of the valve and its arrangement to the engine. Accordingly, Applicants submit that these claims are additionally allowable.

Claims 5, 6, 16 and 17 depend from these allowable claims and as such are also considered to be allowable.

Claims 6 and 17 stand rejected under 35 USC §103 as being obvious over the Japanese reference in view of Matsui and further in view of Reguerio (U.S. Patent 5,339,446). This rejection is respectfully traversed.

The Examiner cites the Reguerio reference to show an oil tank with a strainer. Even if this reference does teach such a feature, Applicants submit that these claims are allowable based on their dependency from allowable independent claims.

No Prosecution History Estoppel

Claims 1, 3, 4, 9, 12, 14 and 15 are hereby represented in independent form. No prosecution history would apply to the interpretation of the limitations set forth in the independent claims and the claims that depend there from in view of the fact that this subject matter has been continuously presented since the original filing date of the present application.

Conclusion

In view of the above remarks, it is believed that the claims clearly distinguish over the patents relied on by the Examiner, either alone or in combination. In view of this, reconsideration of the rejection and allowance of all the claims are respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Robert F. Gnuse (Reg. No. 27,295) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

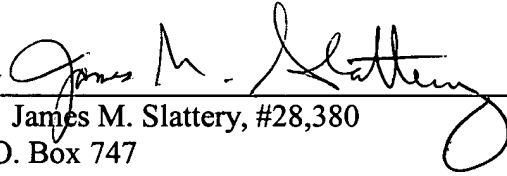
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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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